

Attorney Docket No.: 01CON355P-CON  
Application Serial No.: 10/628,904

**In the Drawings:**

Please replace Figures 1A, 1B, 2 and 3, with enclosed replacement sheets for Figures 1A, 1B, 2 and 3.

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### **REMARKS**

This Amendment and Response is in response to the *Non-Final* Office Action of October 18, 2005, where the Examiner has rejected claims 43, 47-50, 54, 56, 58 and 59, and has objected to claims 44-46, 51-53, 55 and 57. After the present amendment, claims 43-59 remain pending in the present application. An early allowance of outstanding claims 43-59 in view of the following remarks is requested.

#### **A. Objection to the Drawings**

The Examiner has objected to Figures 1A, 1B, 2 and 3, for not having been designated as --Prior Art--. By the present amendment, applicant has amended Figures 1A, 1B, 2 and 3, to include the designation --Prior Art--, as shown in the replacement sheets, attached hereto.

#### **B. Objection to the Specification**

The Examiner has objected to the abstract of the present application, because it is too long and contains the word "means." By the present amendment, applicant has amended the abstract based on pending claims of the present application. Applicant respectfully submits that the Examiner's objection to the abstract has been overcome.

Further, applicant has amended the brief description of the drawings, because Figures 7 and 8 should appropriately be renumbered as Figures 8 and 9, respectively, in the brief description of the drawings, and a brief description for Figures 7A and 7B should be included. Applicant respectfully submits that no new matter has been added, as Figures 7A, 7B, 8 and 9 were submitted as part of the original patent application and have been described in the written description.

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**C. Rejection of Claims 43, 47, 49, 50, 54, 56 and 58 under 35 USC §102(e)**

The Examiner has rejected claims 43, 47, 49, 50, 54, 56 and 58, under 35 USC § 102(e), as being anticipated by Su, et al. (USPN 6,493,665) ("Su"). As noted by the Examiner Mr. Yang Gao, who is the sole inventor of the present application, is also a co-inventor of Su patent.

The Examiner states that FIG. 9 and abstract of Su disclose all the elements of independent claim 43. Applicant respectfully submits that claim 43 is patentably distinguishable over Sue for the following reasons.

It is respectfully submitted that Su describes adjusting a weighting factor for favoring one subcodebook over another. Su describes this favoring process, as follows:

For each bit rate mode selected, pluralities of fixed or innovation subcodebooks are selected for use in generating innovation vectors. The fixed codebook contains pulse subcodebooks and noise-like subcodebooks. To assist in selection of one of the subcodebooks, an adaptive weighting approach is applied in a searching procedure wherein residual classification and various parameters are used to generate a weighting function that is used to favor one subcodebook over another. The pulse subcodebooks are favored to code pulse-like residuals, while the noise-like subcodebooks are favored to code noise-like residuals. The classification may involve identification of noise-like residuals, while the various parameters may comprise pitch correlation, signal to noise ratio, and average to peak ratio. Favoring involves an adjustment to a weighting factor applied to the subcodebooks. (Abstract.)

The Examiner's attention is respectfully directed to FIG. 2 of Su, where fixed codebook 261, including a plurality of subcodebooks, is shown. As described in conjunction with FIG. 9, a weighting factor is applied to select one of the plurality of subcodebooks of fixed codebook 261 over the other subcodebooks. (Col. 40, line 60 – Col. 41, line 11.)

In contrast, independent claim 43 of the present application does not involve applying a "weighting factor" for favoring a subcodebook over another. The "weighting" recited in claim 43 is a "weighting filter" that is applied to a synthesized speech, where the output of each

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weighting filter is used for generating an error signal. With reference to FIG. 4 of the present application, first error weighting filter and second error weighting filter of claim 43 correspond to error weightings 414 and 416, respectively. On the other hand, Su describes using a “weighting factor” for favoring subcodebooks, not a weighting filter that is applied to a synthesized speech for use to generate an error signal.

Further, FIG. 2 of Su illustrates weighting filter 251 and weighting filter 268; however, Su describes weighting filter 251 and weighting filter 268 to be the same. (Col. 9, line 61 – Col. 10, line 12.) On the other hand, claim 43 recites “wherein said first error weighting filter is different from said second error weighting filter.”

Accordingly, applicant respectfully submits that independent claim 43, and its dependent claim 47, should be allowed. Further, independent claims 49 and 54 include limitations similar to those of claim 43 and, thus, claims 49 and 54, and their respective dependent claims 50, 56 and 58, should also be allowed.

**D. Rejection of Claims 48 and 59 under 35 USC §103(a)**

The Examiner has rejected claims 48 and 59, under 35 USC § 103(a), as being unpatentable over Su.

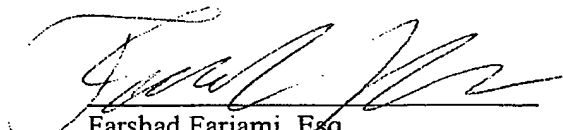
Applicant respectfully submits that claims 48 and 59 depend from claims 43 and 54, respectively. Accordingly, claims 48 and 59 should be allowed at least for the same reasons stated above in conjunction with patentability of claims 43 and 54.

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**E. Conclusion**

Based on the foregoing reasons, an early Notice of Allowance directed to all claims 43-59 pending in the present application is respectfully requested.

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